



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XF013

Fisheries of the Exclusive Economic Zone off Alaska; Application for an Exempted Fishing Permit

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of application for exempted fishing permit.

SUMMARY: This notice announces receipt of an exempted fishing permit (EFP) application from the Alaska Seafood Cooperative (AKSC). If granted, this permit would allow up to ten vessels to participate in the EFP—up to five AKSC-member Amendment 80 vessels would be allowed to conduct experimental fishing in two subareas of the Bering Sea that are closed to fishing with trawl gear, and five additional AKSC-member Amendment 80 vessels would conduct experimental fishing adjacent to the closed areas. Under the permit, experimental fishing with non-pelagic trawl gear would be authorized in Reporting Area 516 of Zone 1 that is otherwise closed to all trawl gear and the Red King Crab Savings Area (RKCSA) that is otherwise closed to non-pelagic trawl gear. The AKSC would collect data on crab prohibited species catch (PSC) rates during commercial groundfish fishing operations inside the Area 516 seasonal closure, the RKCSA, and adjacent areas that are currently open to non-pelagic trawling. The objective of the EFP is to evaluate PSC rates and overall catch of target species in the above-mentioned closed areas compared with the areas currently open to fishing with

trawl gear. This experiment has the potential to promote the objectives of the Magnuson-Stevens Fishery Conservation and Management Act.

DATES: Submit comments on this EFP application on or before December 15, 2016.

The North Pacific Fishery Management Council (Council) will consider the EFP application at its meeting to be held December 6, 2016, through December 14, 2016, in Anchorage, Alaska.

ADDRESSES: The Council meeting will be held at the Anchorage Hilton Hotel, 500 W. 3rd Avenue, Anchorage, AK, 99501. The agenda for the Council meeting is available at http://legistar2.granicus.com/npfmc/meetings/2016/12/950_A_North_Pacific_Council_16-12-06_Meeting_Agenda.pdf

You may submit comments on this document, identified by NOAA-NMFS-2016-0142, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov*#!/docketDetail;D=NOAA-NMFS-2016-0142 click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- **Mail:** Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal

identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of the EFP application and the categorical exclusion under the National Environmental Policy Act are available from the Alaska Region, NMFS website at <http://alaskafisheries.noaa.gov/>.

FOR FURTHER INFORMATION CONTACT: Brandee Gerke, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the domestic groundfish fisheries in the Bering Sea and Aleutian Islands management area (BSAI) under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP), which the Council prepared under the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing the BSAI groundfish fisheries appear at 50 CFR parts 600 and 679. The FMP and the implementing regulations, § 600.745(b) and § 679.6, allow the NMFS Regional Administrator to authorize, for limited experimental purposes, fishing that would otherwise be prohibited. Procedures for issuing EFPs are contained in the implementing regulations.

Background

BSAI groundfish harvests are subject to annual limits on groundfish and PSC. Pacific halibut, Pacific herring, Pacific salmon and steelhead, king crab (including red king crab), and Tanner crab are prohibited species under the FMP. Participants in the BSAI non-pelagic trawl fisheries catch PSC incidentally—primarily crab and halibut.

The directed red king crab pot fishery is one of the most important shellfish fisheries in the Bering Sea. Current regulations for harvesting red king crab in the crab pot fishery may be found in 50 CFR part 680. Red king crab is also caught incidentally as PSC in Bering Sea groundfish non-pelagic trawl fisheries. PSC (including red king crab) in the non-pelagic trawl fisheries must be minimized to the extent practicable and if caught, immediately returned to the ocean with a minimum of injury.

The Council and NMFS have implemented FMP amendments, dating back to the 1980s and 1990s, to reduce the amount of red king crab PSC in trawl fisheries, including the BSAI non-pelagic trawl fishery. For example, the Area 516 red king crab seasonal closure for all trawl gear (FMP Amendment 10) was implemented in 1987 (52 FR 8592, March 19, 1987). FMP Amendment 37, (61 FR 65985, December 16, 1996) was implemented in 1997 to create the RKCSA along with other measures to conserve concentrations of Bristol Bay red king crab.

The management and structure of the non-pelagic trawl fisheries in the Bering Sea have changed since these red king crab closure areas were implemented. In 2008, NMFS implemented Amendment 80 to the FMP (72 FR 52668, September 14, 2007). Amendment 80 established a catch share program to allocate specific non-pelagic groundfish species among specific defined participants (the Amendment 80 sector) and facilitate the formation of Amendment 80 cooperatives among those participants. Nineteen vessels were active in the Amendment 80 sector in 2016—this sector is the largest component of the non-pelagic trawl fishery. With the implementation of Amendment 80 to the FMP in 2008, vessels operating in Amendment 80 cooperatives were able to develop tools to reduce incidental catch of crab PSC.

Participants in Amendment 80 cooperatives have reduced the amount of red king crab PSC through improved fishing practices that are possible now that participants in the Amendment 80 cooperative receive an allocation of specific groundfish species. These exclusive allocations provide opportunities for Amendment 80 cooperative participants to slow down or otherwise change their fishing operations to avoid red king crab. These modified fishing practices are not practicable when vessels are not provided an exclusive harvest allocation, participate in derby-style fisheries, and are competing with other vessels to harvest their groundfish as soon as possible.

Although Amendment 80 cooperatives have undoubtedly helped to reduce red king crab bycatch in the sector's target fisheries, a combination of closed areas and PSC limits currently regulate red king crab PSC in trawl fisheries, including the Amendment 80 sector. For example, Area 516 of Zone 1 in the Bering Sea subarea closes annually to all trawl gear, including Amendment 80 vessels, from March 15 through June 15, § 679.22(a)(2).

Regulations for groundfish fishing in the RKCSA, found at § 679.22(a)(3), close directed fishing for non-pelagic trawl gear in a portion of the Bering Sea subarea defined in Figure 11 to 50 CFR part 679. Non-pelagic trawl gear is used by all Amendment 80 vessels in the Bering Sea.

PSC limits for red king crab, found at § 679.21(e)(1)(i), specify the annual PSC allowance of red king crab for all trawl vessels while engaged in directed fishing for groundfish in Zone 1. Approximately 50 percent of the Zone 1 red king crab PSC limit is apportioned to the Amendment 80 sector, and distributed as an allowance of crab to each

Amendment 80 cooperative. In 2016, the Zone 1 PSC allowance for the AKSC is 30,834 red king crab.

The Zone 1 red king crab PSC allowance, allowed the Amendment 80 cooperatives to assign voluntary, vessel-level apportionments of PSC to vessels fishing in Zone 1. With these voluntary apportionments, vessel owners and operators in the sector began to share information about individual vessel PSC rates and avoid areas with high PSC rates for red king crab.

The primary result of the improved crab avoidance and management tools is that AKSC and the remaining Amendment 80 sector participants have consistently stayed well under the Zone 1 red king crab PSC allowance. While the potential exists for crab PSC allowances and closure areas to constrain allocated catch in some Amendment 80 target fisheries, the Amendment 80 sector continues to actively explore how to further reduce crab PSC while preserving target fishery harvest opportunities.

Exempted Fishing Permit Application

On August 25, 2016, the AKSC, an Amendment 80 cooperative, submitted an application for an EFP. We note that the AKSC submitted an application for similar EFP on October 2, 2015 (80 FR 72049, November 18, 2015). That EFP application was subsequently withdrawn by the applicant to provide additional time for the applicants to address comments received on the experimental design during review at the December 2015 Council meeting. The application submitted by the AFSC on August 25, 2016, includes the additional information requested at the December 2015 Council meeting and a few modifications to the experimental design relative to the October 2, 2015, application.

The EFP would allow up to five AKSC-member Amendment 80 vessels to conduct field tests in two subareas of the Bering Sea that are closed to trawl directed fisheries. Those two subareas are Reporting Area 516 of Zone 1, which is closed to all trawl gear under § 679.22(a)(2), and the RKCSA, which is closed to non-pelagic trawl gear under § 679.22(a)(3). The EFP would also allow up to five additional AKSC-member Amendment 80 vessels to conduct simultaneous, paired field tests adjacent to the two closed subareas. If granted, this EFP would allow AKSC to collect data on crab bycatch rates during commercial fishing operations on ten groundfish fishing vessels (targeting mostly flatfish) inside the Area 516 seasonal closure, the RKCSA, and adjacent areas that are currently open to non-pelagic trawl gear. The principle objective of the EFP is to compare red king crab bycatch rates and target flatfish catch rates inside and outside of the closed areas. Data collected under this EFP would inform whether a systematic survey of crab abundance in the closed area is warranted.

AKSC proposes to conduct EFP fishing from January 20, 2017, through the end of April 2017. EFP fishing would begin again in late January 2018 and end by April 30, 2018. Conducting EFP fishing over two winter/spring seasons would increase the chance that data are collected over a wider range of environmental conditions that are expected to affect crab and flatfish abundance and location.

To ensure data are available for valid comparisons of catch rates inside and outside the closed areas, participating vessels would fish both inside the closed areas and in adjacent areas outside the closed areas (as proportionally as possible) over the course of their Zone 1 rock sole and yellowfin sole fishing each year of the EFP. The adjacent areas outside of the closed areas would be selected based on similarities in general depth

and substrate type with areas fished in the RKCSA and Area 516 closed areas. To help ensure differences in bycatch rates reflect differences in relative abundance rather than the attributes of trawl gear used, the vessels participating in the EFP would keep their ground gear configuration (e.g., size of trawl net and width of footropes) as consistent as possible inside and outside of the closed areas.

Under the EFP, sea samplers would be required for monitoring and data collection. Sea samplers are NMFS-certified observers that conduct activities under an EFP rather than normal observer activities on an Amendment 80 vessel.

The sea samplers would conduct a census of all crab for all EFP tows inside the red king crab closed areas and in adjacent areas outside the red king crab closed areas. The census data would include a record of size and sex of each individual. Temperature and depth data will be collected by sea samplers for each tow. Sea samplers will also collect fishing operational information such as tow speed and tow length. AKSC will compare catch rates on different EFP vessels when fishing in similar areas to evaluate the degree to which individual vessels are impacting catch rates.

To ensure observer sampling duties are undisturbed, expanded crab data collection under the census would be conducted in a manner that is completely separate from current observer sampling protocols. To accomplish this, the crab census would occur after all the catch passes over the vessel's flow scale and the observer has completed all sampling of unsorted catch for all Bering Sea EFP hauls.

The ten vessels authorized to participate in this EFP would be required to comply with all the aggregate target species allocations that apply to the rest of the Amendment 80 sector, and would operate under the Amendment 80 crab and halibut PSC allowances

available through membership in the AKSC. These allowances would apply to all EFP and non-EFP fishing during the year.

Under the EFP, the AKSC and the member EFP vessels would be limited to the amount of aggregate groundfish allocations currently in regulation at 50 CFR part 679. Further, the amount of red king crab PSC accrued by the AKSC and under the EFP would not exceed the AKSC's 2017 or 2018 red king crab allowance. All other crab limits and halibut mortality limits will continue to apply to the EFP activities, and are subject to review and approval by NMFS.

At the end of EFP fishing in 2017, AKSC would be required to submit to NMFS a preliminary report of the EFP results on PSC use inside and outside of the closed areas and by target fishery. At the end of EFP fishing in 2018, a final, comprehensive EFP report would be submitted.

The proposed action would exempt participating AKSC vessels from selected 50 CFR part 679 closed areas and PSC handling requirements. Should the Regional Administrator issue a permit based on this EFP application, the conditions of the permit would be designed to minimize PSC, and any potential for EFP participants to bias estimates of groundfish or PSC. Vessels participating in EFP fishing would be exempt from, at minimum, the following regulations:

1. Closure to directed fishing by trawl gear in Reporting Area 516 of Zone 1 in the Bering Sea subarea from March 15 through June 15, at § 679.22(a)(2).
2. Closure to directed fishing by non-pelagic trawl gear in the RKCSA, at § 679.22(a)(3).

3. The operator of each vessel, after allowing for sampling by an observer, return all prohibited species, or parts thereof, to the sea immediately, with a minimum of injury, regardless of its condition, at § 679.21(a)(2)(ii).

The EFP would be valid upon issuance in 2017 until either the end of designated EFP fishing in 2018 or until the AKSC Zone 1 red king crab PSC allowance is reached in areas of the BSAI open to directed fishing by the Amendment 80 cooperatives. EFP-authorized fishing activities would not be expected to change the nature or duration of the groundfish fishery, gear used, or the amount or species of fish caught by the Amendment 80 cooperatives.

The fieldwork that would be conducted under this EFP is not expected to have a significant impact on the human environment as detailed in the categorical exclusion prepared for this action (see **ADDRESSES**).

In accordance with § 679.6, NMFS has determined that the application warrants further consideration and has forwarded the application to the Council to initiate consultation. The Council is scheduled to consider the EFP application during its December 2016 meeting, which will be held at the Anchorage Hilton Hotel, Anchorage, AK. The EFP application will also be provided to the Council's Scientific and Statistical Committee for review at the December Council meeting. The applicant has been invited to appear in support of the application.

Public Comments

Interested persons may comment on the EFP application at the December 2016 Council meeting during public testimony. Information regarding the meeting is available

at the Council's website at <http://alaskafisheries.noaa.gov/npfmc/council.htm>.

Comments also may be submitted directly to NMFS (see **ADDRESSES**) by the end of the comment period (see **DATES**). Copies of the application and categorical exclusion are available for review from NMFS (see **ADDRESSES**).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 18, 2016.

Emily H. Menashes,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

[FR Doc. 2016-28274 Filed: 11/22/2016 8:45 am; Publication Date: 11/23/2016]